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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,493	12/05/2003	Jun Watanabe	Q78867	7236
23373	7590	01/30/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			KRAMER, NICOLE R	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/727,493</p>	<p>Applicant(s) WATANABE ET AL.</p>	
	<p>Examiner Nicole R. Kramer</p>	<p>Art Unit 3762</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached Responses to Arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/13/2006 have been fully considered but they are not persuasive.

Applicant argues that Pless et al. does not disclose "an analyzer, operable to detect a waveform of the electric pulse which has been actually output from the electrodes." Examiner maintains that the defibrillator disclosed in Press et al. includes an analyzer that detects a waveform of the electric pulse which has been actually output from the electrodes and analyzes a parameter of the waveform (following the defibrillation shock, the microprocessor calculates and displays the delivered energy and the amount of resistance by measuring the residual voltage on the capacitor; see col. 11, line 45 - col. 12, lines 43). These parameters are displayed on a display (see col. 12, lines 32-34). In determining the energy delivered and the resistance, the microprocessor of Pless et al. utilizes the residual voltage on the discharge capacitor as well as the pulse width of the defibrillating shock (see col. 12, lines 18-34). Examiner considers the broadest reasonable interpretation of detecting "a waveform of the electric pulse" to encompass detecting any characteristics relating to the waveform of the electric pulse, including the pulse width of the delivered defibrillating shock. Accordingly, the microprocessor of Pless et al. detects a waveform of the electric pulse in that the microprocessor detects the pulse width of the defibrillating shock and

analyzes a parameter of the waveform in that the microprocessor calculates the resistance.

Applicant further argues that Charbonnier et al. does not disclose "an analyzer, operable to detect a waveform of the electric pulse which has been actually output from the electrodes." Examiner maintains that the defibrillator in Charbonnier et al. includes an analyzer which detects a waveform of the electric pulse which has been actually output from the electrodes (peak detector 43 detects the peak current magnitude of the pulse and processes that value to produce an indication of the value of transthoracic load resistance presented by the patient during the pulse, and multiplier 63 produces an indication of the energy actually delivered to the patient by the defibrillation pulse as disclosed at col. 5, line 60 - col. 6, lines 6) and analyzes a parameter (i.e., the transthoracic resistance, energy delivered by transmitted defibrillation pulse) of the waveform. These parameters are displayed on a display (chart recorder 59) (col. 6, lines 11-14). Examiner considers the broadest reasonable interpretation of detecting "a waveform of the electric pulse" to encompass detecting any characteristics relating to the waveform of the electric pulse, including the peak current magnitude of the electric pulse. Accordingly, the defibrillator of Charbonnier et al. detects a waveform of the electric pulse in that peak detector 43 detects the peak current magnitude of the electric pulse and analyzes a parameter of the waveform in that peak detector 43 processes that value to produce an indication of the value of transthoracic load resistance presented by the patient during the pulse.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole R. Kramer whose telephone number is 571-272-8792. The examiner can normally be reached on Monday through Friday, 8 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NRK

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1/25/06


George Manuel
Primary Examiner